

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF WESTCHESTER-----X  
KRISTY SMITH,

Plaintiff,

-against-

NEW YORK SCHOOL FOR THE DEAF,

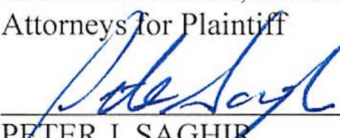
Defendant.  
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TO THE ABOVE NAMED DEFENDANTS:

YOU ARE HEREBY SUMMONED to answer the complaint in this action and to serve a copy of your answer, or, if the complaint is not served with this summons, to serve a notice of appearance, on the plaintiff's attorneys within 20 days after the service of this summons, exclusive of the day of service (or within 30 days after the service is complete if this summons is not personally delivered to you within the State of New York); and in case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the complaint.

Dated: New York, New York  
November 5, 2019

Yours etc.,  
GAIR, GAIR, CONASON, RUBINOWITZ, BLOOM,  
HERSHENHORN, STEIGMAN & MACKAUF  
Attorneys for Plaintiff

  
PETER J. SAGHIR  
80 Pine Street, 34<sup>th</sup> Floor  
New York, New York 10005  
(212) 943-1090

TO: See Attached Service Rider

SERVICE RIDER

NEW YORK SCHOOL FOR THE DEAF  
555 Knollwood Road  
White Plains, NY 10603

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF WESTCHESTER

-----X  
KRISTY SMITH,

Index No.: \_\_\_\_\_/19

Plaintiff,

VERIFIED COMPLAINT

-against-

NEW YORK SCHOOL FOR THE DEAF,

Defendant.  
-----X

Plaintiff, complaining of the defendants, by and through her attorneys, GAIR,  
GAIR, CONASON, RUBINOWITZ, BLOOM, HERSHENHORN, STEIGMAN & MACKAUF,  
respectfully shows to this Court and alleges as follows:

AS AND FOR A FIRST CAUSE OF ACTION

1. Upon information and belief, that at all times herein mentioned, defendant, NEW YORK SCHOOL FOR THE DEAF, was and still is a private, non-profit corporation duly organized and existing under and by virtue of the laws of the State of New York.

2. Upon information and belief, that at all times herein mentioned, defendant, NEW YORK SCHOOL FOR THE DEAF, owned a school known as New York School for The Deaf located at 555 Knollwood Road, White Plains, NY 10603.

3. Upon information and belief, that at all times herein mentioned, defendant, NEW YORK SCHOOL FOR THE DEAF, its agents, servants and employees managed, maintained, operated and controlled the aforesaid school known as New York School for The Deaf located at 555 Knollwood Road, White Plains, NY 10603.

4. Upon information and belief, that at all times herein mentioned, defendant, NEW YORK SCHOOL FOR THE DEAF, held itself out to the public as the owner of New York

School for The Deaf located at 555 Knollwood Road, White Plains, NY 10603.

5. Upon information and belief, that at all times herein mentioned, defendant, NEW YORK SCHOOL FOR THE DEAF, held itself and its agents, servants and employees out to the public as those who managed, maintained, operated and controlled New York School for The Deaf located at 555 Knollwood Road, White Plains, NY 10603.

6. Upon information and belief, that at all times herein mentioned, Joseph Casucci was a houseparent at New York School for The Deaf located at 555 Knollwood Road, White Plains, NY 10603.

7. Upon information and belief, that at all times herein mentioned, Joseph Casucci and his wife Marie Casucci resided in the pre-primary girls dormitory on the premises of New York School for The Deaf located at 555 Knollwood Road, White Plains, NY 10603.

8. Upon information and belief, that at all times herein mentioned, Joseph Casucci was on the staff of defendant, NEW YORK SCHOOL FOR THE DEAF.

9. Upon information and belief, that at all times herein mentioned, Joseph Casucci was acting as an agent of defendant, NEW YORK SCHOOL FOR THE DEAF.

10. Upon information and belief, that at all times herein mentioned, Joseph Casucci was an employee of defendant, NEW YORK SCHOOL FOR THE DEAF.

11. Upon information and belief, that at all times herein mentioned, Joseph Casucci was acting in the course and scope of his employment with defendant, NEW YORK SCHOOL FOR THE DEAF.

12. Upon information and belief, that at all times herein mentioned, defendant, NEW YORK SCHOOL FOR THE DEAF, hired Joseph Casucci.

13. Upon information and belief, that at all times herein mentioned, defendant, NEW

YORK SCHOOL FOR THE DEAF, retained Joseph Casucci.

14. Upon information and belief, that at all times herein mentioned, defendant, NEW YORK SCHOOL FOR THE DEAF, supervised Joseph Casucci.

15. Upon information and belief, that at all times herein mentioned, defendant, NEW YORK SCHOOL FOR THE DEAF, was responsible for the staffing and hiring at New York School for The Deaf located at 555 Knollwood Road, White Plains, NY 10603.

16. Upon information and belief, that at all times herein mentioned, defendant, NEW YORK SCHOOL FOR THE DEAF, did the hiring and staffing at New York School for The Deaf located at 555 Knollwood Road, White Plains, NY 10603.

17. Upon information and belief, that at all times herein mentioned, Joseph Casucci had complaints of sexual abuse made against him.

18. Upon information and belief, that at all times herein mentioned, defendant, its agents, servants and employees knew or should have known of the aforesaid complaints of sexual abuse against Joseph Casucci.

19. Upon information and belief, that at all times herein mentioned, Joseph Casucci was a known sexual abuser of children.

20. Upon information and belief, that at all times herein mentioned, defendant, NEW YORK SCHOOL FOR THE DEAF, received complaints that Joseph Casucci had been a sexual abuser of children.

21. Upon information and belief, that at all times herein mentioned, defendant, its agents, servants and employees, knew or should have known that Joseph Casucci had been the subject of complaints of sexual abuse.

22. Upon information and belief, that at all times herein mentioned, defendant, its



agents, servants and employees, knew or should have known that Joseph Casucci was a known sexual abuser of children.

23. Upon information and belief, that at all times herein mentioned, defendant, its agents, servants and employees, could reasonably have anticipated that Joseph Casucci's sexual abuse complaints and sexual abuse of children would be likely to result in injury to others.

24. Upon information and belief, that at all times herein mentioned, defendant, its agents, servants and employees failed to investigate the aforesaid complaints against Joseph Casucci.

25. Upon information and belief, that at all times herein mentioned, defendant, its agents, servants and employees failed to properly, adequately and thoroughly investigate the aforesaid complaints against Joseph Casucci.

26. Upon information and belief, that at all times herein mentioned, defendant, its agents, servants and employees failed to report or refer the aforesaid complaints made against Joseph Casucci to the police or any other agency to be investigated.

27. Upon information and belief, that at all times herein mentioned, defendant, its agents, servants and employees carelessly, negligently and recklessly ignored and dismissed the aforesaid complaints against Joseph Casucci.

28. Upon information and belief, that at all times herein mentioned, the aforesaid complaints against Joseph Casucci had merit.

29. Upon information and belief, that at all times herein mentioned, defendant, its agents, servants and employees, knew or should have known that the aforesaid complaints against Joseph Casucci had merit.

30. That at all times herein mentioned, defendant, NEW YORK SCHOOL FOR THE

DEAF, failed to establish policies and procedures directed towards protecting minors from sexual abuse.

31. That at all times herein mentioned, plaintiff, KRISTY SMITH, was enrolled as a student at New York School for The Deaf located at 555 Knollwood Road, White Plains, NY 10603.

32. From approximately 1976 to 1979, Joseph Casucci sexually abused plaintiff, KRISTY SMITH, while plaintiff was still an infant, on school property at New York School for The Deaf located at 555 Knollwood Road, White Plains, NY 10603.

33. The aforesaid abuse constituted a sexual offense as defined in article one hundred thirty of the penal law committed against a child less than eighteen years of age, or the use of a child in a sexual performance as defined in section 263.05 of the penal law, or a predecessor statute that prohibited such conduct at the time of the act, which conduct was committed against a child less than eighteen years of age.

34. Upon information and belief, Joseph Casucci is deceased.

35. From approximately 1976 to 1979 defendant, its agents, servants and employees knew or should have known that Joseph Casucci was sexually abusing plaintiff, KRISTY SMITH, while plaintiff was still an infant.

36. From approximately 1976 to 1979 defendant, its agents, servants and employees knew or should have known that Joseph Casucci was sexually abusing plaintiff, KRISTY SMITH, while plaintiff was still an infant, on school property at New York School for The Deaf located at 555 Knollwood Road, White Plains, NY 10603.

37. Upon information and belief, that at all times herein mentioned, defendant, its agents, servants and employees knew or should have known that the sexual abuse by Joseph

Casucci of plaintiff, KRISTY SMITH, while plaintiff was still an infant, was ongoing.

38. Defendant, NEW YORK SCHOOL FOR THE DEAF, trained and instructed Joseph Casucci for his employment at New York School for The Deaf.

39. Upon information and belief, that at all times herein mentioned Joseph Casucci was under the direct supervision and control of defendant, NEW YORK SCHOOL FOR THE DEAF, when he performed the wrongful acts described herein.

40. That the aforesaid occurrences were caused or contributed to by the negligence, carelessness and recklessness and the willful, wanton, and grossly negligent conduct of the defendant, its agents, servants and/or employees, in: selecting, hiring, contracting and retaining Joseph Casucci to work with the plaintiff while plaintiff was still an infant and other children when it was known or should have been known to the defendants herein that Joseph Casucci had a history of complaints made against him and a propensity to sexually abuse children and in fact had sexually abused children; selecting, hiring, contracting and retaining Joseph Casucci when it was known or should have been known to the defendants herein that he did not possess the requisite skills or qualifications to work with children; failing to properly and adequately supervise the conduct of Joseph Casucci as it related to the plaintiff while plaintiff was still an infant and other children when it was known or should have been known to the defendants herein that Joseph Casucci had a history of complaints made against him and a propensity to sexually abuse children and in fact had sexually abused children; failing to warn or advise the plaintiff, who was still an infant, her parents and others of Joseph Casucci's propensity to sexually abuse children and of the fact that he had sexually abused children whom he came in contact with by and through his roles at New York School for The Deaf; causing, permitting and allowing the sexual abuse to continue; failing to take any measures to stop the sexual abuse when it was



known or should have been known to the defendants herein that the sexual abuse was continuing and ongoing; failing to establish adequate and effective professional training and educational programs and procedures for their employees calculated to prevent the sexual abuse of children; failing to implement any measures or take any steps to prevent Joseph Casucci from sexually abusing the plaintiff while the plaintiff was still an infant when it was known or should have been known to the defendants herein that Joseph Casucci had a history of complaints of sexual abuse made against him and a propensity to sexually abuse children and in fact had sexually abused children; failing to make any inquiry into the background of Joseph Casucci before selecting, hiring, contracting and retaining him; failing to make any inquiry into the background of Joseph Casucci before selecting, hiring, contracting and retaining him when it was known or should have been known before he was hired that Joseph Casucci had a propensity to sexually abuse children and had a history of complaints made against him; failing to use reasonable care to correct and remove Joseph Casucci and continuing to retain him when it was known or should have been known to the defendants herein that Joseph Casucci had a history of complaints made against him and a propensity to sexually abuse children and in fact had sexually abused children and was sexually abusing children and that continuing to retain him would be likely to result in injury to others, including the plaintiff while plaintiff was still an infant; causing, permitting and allowing the plaintiff to be sexually abused while plaintiff was still an infant; and in otherwise being careless, negligent and reckless.

41. By reason of the forgoing, plaintiff, KRISTY SMITH, sustained physical and psychological injuries, including but not limited to, severe emotional distress, humiliation, fright, dissociation, anger, depression, anxiety, family turmoil, a severe shock to her nervous system, certain internal injuries and has been caused to suffer physical pain and mental anguish,

emotional and psychological damage as a result thereof, and, upon information and belief, some or all of these injuries are of a permanent and lasting nature; and plaintiff, KRISTY SMITH, has been forced to abstain from the duties of her vocation, and has and/or will become obligated to expend sums of money for medical expenses.

42. That by reason of the foregoing, defendants are liable to plaintiff for punitive and exemplary damages.


43. That the amount of damages sought exceeds the jurisdictional limits of all lower courts which would otherwise have jurisdiction.

44. It is hereby alleged pursuant to CPLR 1603 that the foregoing cause of action is exempt from the operation of CPLR 1601 by reason of one or more of the exemptions provided in CPLR 1602, including but not limited to, CPLR 1602(5), 1602(7) and 1602(11).

WHEREFORE, the plaintiff demands judgment against the defendants, together with compensatory and punitive damages, together with the interest, cost, and disbursements pursuant to the causes of action herein.

Dated: New York, New York  
November 5, 2019

Yours etc.,  
GAIR, GAIR, CONASON, RUBINOWITZ, BLOOM,  
HERSHENHORN, STEIGMAN & MACKAUF  
Attorneys for Plaintiff



PETER J. SAGAR  
80 Pine Street, 34<sup>th</sup> Floor  
New York, New York 10005  
(212) 943-1090

STATE OF NEW YORK     )  
                                      ) ss.:  
COUNTY OF NEW YORK    )

PETER J. SAGHIR, an attorney at law licensed to practice in the courts of the State of New York, states that affirmant is a partner with the firm of Gair, Gair, Conason, Rubinowitz, Hershenhorn, Bloom, Steigman & Mackauf, attorneys for the plaintiff in the within action; that affirmant has read the foregoing

VERIFIED COMPLAINT

and knows the contents thereof; and that the same is true to affirmant's own knowledge except as to those matters therein stated to be alleged on information and belief and that as to those matters, affirmant believes them to be true.

Affirmant further states that the reason this verification is made by affirmant and not by the plaintiff is that the plaintiff is not within the County wherein affirmant maintains his office.

The grounds of affirmant's belief are investigation and data in affirmant's possession and consultations had with the plaintiff.

The undersigned affirms that the foregoing statements are true under penalty of perjury.

Dated: New York, New York  
November 5, 2019

  
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PETER J. SAGHIR